



Update Regarding the Department of Labor Fiduciary Rule

October 2021

On Oct. 25, 2021, the Department of Labor (DOL) issued Field Assistance Bulletin No. 2021-02 (the Bulletin). In the bulletin, the DOL revised and extended the temporary enforcement policy related to the DOL's Fiduciary Rule/Prohibited Transaction Exemption 2020-02 (the DOL Fiduciary Rule). Previously, the DOL provided that it would not pursue prohibited transaction claims against investment advisers who are working diligently and in good faith to comply with the Impartial Conduct Standards for transactions exempted under the DOL Fiduciary Rule. This waiver was to be in effect from Feb. 16, 2021 through Dec. 20, 2021. Thereafter, the full requirements of the DOL Fiduciary Rule would be applicable.

The bulletin revised the enforcement waiver dates as follows.

Feb. 16, 2021 through Jan. 31, 2022

For financial institutions that are working diligently to comply with the Impartial Conduct Standards, the DOL will not pursue prohibited transaction claims through Jan. 31, 2022. The DOL extended this initial enforcement waiver period from Dec. 20, 2021 to Jan. 31, 2022.

Feb. 1, 2022 through June 30, 2022

In addition to working diligently to comply with the Impartial Conduct Standards, for the period of Feb. 1, 2022, through June 30, 2022, investment advisers must adhere to the following requirements of the DOL Fiduciary Rule:

- Disclosure of fiduciary status;
- A written description of services to be provided by, and material conflicts of interest of, the investment adviser;

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- Adoption and implementation of policies and procedures ensuring:
- Compliance with the Impartial Conduct Standards; and
- Mitigating conflicts of interest;
- Retrospective review at least annually designed to assist the investment adviser in detecting and preventing violations of, and achieving compliance with, the Impartial Conduct Standards and the other requirements of the DOL Fiduciary Rule;
- Eligibility; and
- Recordkeeping.

July 1, 2022

As well as complying with all of the above listed requirements, beginning July 1, 2022, investment advisers must begin documenting the specific reasons why a rollover recommendation is in the best interest of an investor and provide the investor with this documentation.

Dinsmore Compliance Services issued an Investment Adviser Alert titled Preparing for the Full Implementation of the DOL Fiduciary Rule on July 12, 2021. For additional information regarding the specific requirements of the DOL Fiduciary Rule referenced above, refer to that alert.

Also during this period, the self-correction provisions of the DOL Fiduciary Rule are available to investment advisers.

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Questions? Contact the DCS Team

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